

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 19-6305**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC HAMMONS ALLEN, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Florence.  
Terry L. Wooten, Senior District Judge. (4:02-cr-00750-TLW-2; 4:16-cv-01569-TLW)

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Submitted: August 30, 2019

Decided: September 13, 2019

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Before NIEMEYER and QUATTLEBAUM, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Eric Hammons Allen, Jr., Appellant Pro Se. Carrie Fisher Sherard, Assistant United States  
Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina,  
for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

Eric Hammons Allen, Jr., seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2012) motion. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(B) (2012). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2012). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the motion states a debatable claim of the denial of a constitutional right. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

We have independently reviewed the record and conclude that Allen has not made the requisite showing.\* Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Allen's motion for appointment of counsel. We dispense with oral

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\* After the district court entered its judgment, the Supreme Court decided *United States v. Davis*, 139 S. Ct. 2319 (2019). In *Davis*, the Supreme Court held that the residual clause of the definition of crime of violence in 18 U.S.C. § 924(c)(3)(B) (2012) is unconstitutionally vague. *Davis*, 139 S. Ct. at 2336; *accord United States v. Simms*, 914 F.3d 229, 232 (4th Cir. 2019) (en banc), *petition for cert. docketed*, 87 U.S.L.W. 3427 (U.S. Apr. 24, 2019) (No. 18-1338). However, we recently held that Hobbs Act robbery qualifies as a crime of violence under the force clause in 18 U.S.C. § 924(c)(3)(A), which remains intact after *Davis*. *See United States v. Mathis*, \_\_ F.3d \_\_, No. 16-4633, 2019 WL 3437626, at \*16 (4th Cir. July 31, 2019).

argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*DISMISSED*